

§ 658.706 Notice of decertification.

If the Secretary decides to decertify a State agency, he/she shall send a Notice of Decertification to the State agency stating the reasons for this action and providing a 10 working day period during which the State agency may request an administrative hearing in writing to the Secretary. The notice shall be published promptly in the FEDERAL REGISTER.

§ 658.707 Requests for hearings.

(a) Any State agency which received a Notice of Decertification under § 658.706 or a notice of disallowance under § 658.702 may request a hearing on the issue by filing a written request for hearing with the Secretary within 10 working days of receipt of the notice. This request shall state the reasons the State agency believes the basis of the decision to be wrong, and it must be signed by the State Administrator.

(b) When the Secretary receives a request for a hearing from a State agency, he/she shall send copies of a file containing all materials and correspondence relevant to the case to the Assistant Secretary, the Regional Administrator, the Solicitor of Labor, and the Chief Administrative Law Judge of the DOL. When the case involves violations of regulations governing services to MSFWs or the ES complaint system, a copy shall be sent to the National MSFW Monitor Advocate.

(c) The Secretary shall publish notice of hearing in the FEDERAL REGISTER. This notice shall invite all interested parties to attend and to present evidence at the hearing. All interested parties who make written request to participate shall thereafter receive copies of all documents filed in said proceedings.

§ 658.708 Hearings.

(a) Upon receipt of a hearing file by the Chief Administrative Law Judge, the case shall be docketed and notice sent by registered mail, return receipt requested, to the Solicitor of Labor, Attention: Associate Solicitor for Employment and Training, the Administrator, the Regional Administrator and the State Administrator. The notice shall set a time, place, and date for a

hearing on the matter and shall advise the parties that:

(1) They may be represented at the hearing;

(2) They may present oral and documentary evidence at the hearing;

(3) They may cross-examine opposing witnesses at the hearing; and

(4) They may request rescheduling of the hearing if the time, place, or date set are inconvenient.

(b) The Solicitor of Labor or the Solicitor's designee shall represent the Department at the hearing.

§ 658.709 Conduct of hearings.

(a) Hearings shall be conducted in accordance with sections 5-8 of the Administrative Procedure Act, 5 U.S.C. 553 *et seq.*

(b) Technical rules of evidence shall not apply, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination, shall be applied if necessary by the Administrative Law Judge conducting the hearing. The Administrative Law Judge may exclude irrelevant, immaterial or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties. Opportunity shall be given to refute facts and arguments advanced on either side of the issue. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record.

(c) The general provisions governing discovery as provided in the Rules of Civil Procedure for the United States District Court, title V, 28 U.S.C., rules 26 through 37, may be made applicable to the extent that the Administrative Law Judge concludes that their use would promote the proper advancement of the hearing.

(d) When a public officer is a respondent in a hearing in an official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the proceeding does not abate and the officer's successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantive